

Agamben and the Logic of *Geltung ohne Bedeutung* (validity without significance) at the Foundation of the Juridical, Political, Linguistic, Ethical and Medical Domains

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Abstract

In a letter to his friend Walter Benjamin in 1934, the scholar of religions Gershom Scholem described the status of the law in Kafka's work as *Geltung ohne Bedeutung* (validity without significance). He meant that, in Kafka's work, the law keeps its *validity*, but does not translate into concrete, identifiable laws. More than sixty years later, Agamben revived this notion in a number of texts.

The first goal of this paper is to explore how an attentive reading of Agamben reveals that the logic of *Geltung ohne Bedeutung* might also operate at the foundational moment of the juridical, the political, the ethical, and the linguistic. And, moreover, how this logic, as if *haunting* us, is felt throughout the entire experience of these fields.

Second, by moving beyond Agamben's work, I study the potential that the notion has for understanding the foundational moment of the medical field: the meta-medical. I argue that the notion of *Geltung ohne Bedeutung* sheds new light on why philosophers of medicine do not agree on the criteria for distinguishing between the normal and the pathological.

It remains to be explored how much this logic and its implications owe to Husserl's digression on the dialectics between genesis and structure.

Introduction

In a letter to his friend Walter Benjamin in 1934, the scholar of religions Gershom Scholem described the status of the law in Kafka's work as *Geltung ohne Bedeutung*, which in English has been translated as 'validity without significance'. He meant that, in Kafka's work, the law keeps its *validity*, but does not *signify* anything in particular, that is to say, it does not translate into any concrete, identifiable law. In Scholem's own words:

(By the nothingness of revelation, I understand) a state in which revelation appears to be without meaning, in which it still asserts itself, in which it has validity but no significance (*in dem sie gilt, aber nicht bedeutet*). A state in which the wealth of meaning is lost and what is in the process of appearing (for revelation is such a process) still does not disappear, even though it is reduced to the zero point of its own content, so to speak.¹

This difficult passage has been the object of a number of interpretations. Among them, I would like to draw the attention to the thought-provoking reading offered by Italian philosopher Giorgio Agamben in three of his texts.

¹ Scholem 1989, p. 142.

These three texts deal with different issues and have different purposes, but I propose to read them in conjunction.

The aim of this paper is twofold. First, my goal is to read and explore all three texts in conjunction in order to offer a complete analysis of the place and the role of the notion of *Geltung ohne Bedeutung* in Agamben's work. Within Agamben's vast opus, this notion is not a central one — it only appears here and there. However, it is my view that the notion plays a significant role within Agamben's thought. My first goal is, in particular, to explore how an attentive reading of Agamben's work reveals that the logic of *Geltung ohne Bedeutung* might not only inform the juridical world of Kafka's work, but also lie at the heart of Agamben's account of a number of foundations at the juridico-political, linguistic, and ethical level. The notion is, therefore, of the utmost importance within Agamben's work. These foundations will be examined in turn in the first three sections of the paper. In order to delve more deeply into each of these dimensions, I turn to Agamben's reflections, and I complement his reading with arguments made by Jacques Derrida, to whom Agamben is indebted, and by Eric Santner, who explores Agamben's view on *Geltung ohne Bedeutung* at length.

The second goal is to move beyond Agamben's reading and to suggest that the logic of *Geltung ohne Bedeutung* also lies at the heart of any attempt to lay the foundations of the criteria that distinguish between the normal and the pathological. As I see it, the exploration of the notion of *Geltung ohne Bedeutung* has been limited to the fields of political philosophy, philosophy of language, and ethical theory, with its potential for understanding the intricacies of the foundations of the medical field — the metamedical — left unexamined. There may be several reasons for this omission, but it may largely be due to the fact that philosophers of medicine often hail from the discipline of analytic philosophy, where there is very little room, if any, for Agamben's theologically-inspired thought.

In section 4, therefore, I will explain how philosophers of medicine do not agree on the criteria for distinguishing between the normal and the pathological. And my point will be that the notion of *Geltung ohne Bedeutung* can shed new light on the reason for this lack of consensus. My starting point will be the idea that the medical field is the study and treatment of everything that falls within the domain of *pathology*. Therefore, in order to determine where the medical field opens up, one needs to first define what pathology is. However, philosophers of medicine have not reached a consensus on this — normativists suggest defining pathology in a certain way, while naturalists favour another type of definition. I will maintain that at the moment the medical dimension is opened up, what is operating is the logic of *Geltung ohne Bedeutung*. And I will explore why it is precisely this logic that makes it impossible for only one explanation to define the criteria for what pathology is, once and for all. I will conclude, therefore, by saying that

the unsolvable discussion between different views on how to draw the threshold between the pathological and the normal stems from the ambivalent logic of *Geltung ohne Bedeutung* that lies at the core of any attempt to define the pathological.

SECTION 1. The implications of ‘validity without significance’ for political philosophy and the juridical field

Agamben refers to Scholem’s letter to Benjamin in the fourth chapter of the first volume of his *Homo Sacer* (1995), when examining Kafka’s story ‘Before the law’ (1925). According to Agamben, the character in Kafka’s story is exposed to a law that is in force, but does not signify anything in particular: it has no content. It is not, though, a lawless world that is depicted. The law does indeed apply, but ‘in no longer applying’.² It is a matter of a pure intentionality without content, a mere impulse that does not materialise in any concrete legal form.

Although Agamben does not put it in these words, the atmosphere of Kafka’s world is suffocating because, when the law does not acquire a concrete form, one can neither identify it nor escape from it. *Geltung ohne Bedeutung* is thus frighteningly dangerous. And, as other works by the philosopher reveal, Agamben is concerned with how to switch off this terrible force.

But the logic of *Geltung ohne Bedeutung* is more than the logic surrounding the experience of Kafka’s world. For Agamben, it is interesting because it is also, and primarily, the stage where the legal sphere opens up. Or, in other words, it is the stage that creates the division between the legal and the illegal – yet this stage is not yet legal or illegal. It is the zero moment of the law, the moment in which the law, to put it in Aristotle’s words, is a pure potentiality without act.

Agamben draws the attention to the fact that this logic appears for the first time in modernity in Kant’s *Critique of Practical Reason*. For Agamben, what ‘Kant calls “the simple form of law” (*die blosse Form des Gesetzes*) in the *Critique of Practical Reason* is in fact a law reduced to the zero point of its significance, which is, nevertheless, in force as such’.³ It is an imperative that prescribes nothing in particular.

The originality of Agamben’s reading lies in the fact that, for him, this idea of something being in force without significance is also the very structure of sovereignty.⁴ And, what is more, that ‘a life under a law that is in force

² Agamben 1995, p. 33.

³ Ibid., p. 28.

⁴ Ibid., p. 35.

without signifying resembles life in the state of exception'.⁵ Agamben developed this thesis at length some years later in *State of Exception* (2003), particularly in chapter 2. By state of exception he refers to a measure that is contemplated in all Western democracies and that can be declared in the face of a catastrophe: the temporary suspension of some rights and laws (or the suspension of the rule of law as such) in order to return to the normal order of things as quickly as possible. In this sense, a state of exception is opposed to chaos – its goal is to safeguard the order in force.

By taking further Carl Schmitt's (1922) inquiry into the state of exception, Agamben examines the paradox that lies at the heart of this phenomenon: within the state of exception, one is simultaneously outside the law and inside it.⁶ Law is suspended, but legally. This is why he conceives it as a territory of indiscernibility between being inside and outside the law.

Although Agamben does not refer either to the letter by Scholem or to *Geltung ohne Bedeutung* in chapter 2 of *State of Exception*, the logic at work is exactly the same. Just as in Kafka's world, the application of the law is suspended, but the law remains in force.⁷ Agamben warns us, then, about the fact that, within the state of exception, the formal essence of the law is separated from its applicability – the former remains in place, while the latter is suppressed. He goes on to describe this state as a force-of-law – striking through the word 'law'. And he explains that, in contemporary politics, sovereigns can suspend the law – concrete laws – but not the force of law as such. That is, within the state of exception, it becomes clear that the potentiality of the law and its actions are radically separated.⁸

Agamben's whole argumentation aims to demonstrate that an analysis of global politics, in particular, an examination of the proliferation of declarations of states of exceptions since the 2001 terrorist attack on New York's Twin Towers, reveals that the state of exception is no longer an exceptional, temporary measure, but 'tends increasingly to appear as the dominant paradigm of government in contemporary politics'.⁹

Yet there is more to this. Between *Homo Sacer* (1995) and *State of Exception* (2003), Agamben published 'The Messiah and the Sovereign: the Problem of the Law in Walter Benjamin' (1999). In it, Agamben holds that the 'validity without significance' of which Scholem speaks in the letter to his friend is the logic of the state of exception which Benjamin refers to, and which, to Benjamin, is, *simultaneously, the logic of the messianic state within*

⁵ Ibid., p. 35.

⁶ Agamben 2003, p. 35.

⁷ Ibid., p. 31.

⁸ Ibid., p. 39.

⁹ Ibid., p. 2.

Jewish thought.¹⁰ For the messianic Jewish tradition, when the messiah appears, the law will no longer be necessary. However, according to some authors, it will not be cancelled either; it will be suspended whilst still being in force. According to Agamben, then, Benjamin proposes an analogy between the arrival of the Messiah and the Schmittian state of exception.

In other words, if one reads these three texts by Agamben in conjunction, *Geltung ohne Bedeutung* describes, simultaneously, the status of the law in Kafka's work, in the messianic state, and in the state of exception, which is becoming the norm in Western governmentality. In short, Agamben presents 'validity without significance' as a crucial juridical and political mechanism and goes so far as to state that we now live in a permanent messianic paradox. We shall later see how this paradox has been made manifest in the states of exception declared à propos the covid-19 episode.

SECTION 2. Philosophy of language and 'validity without significance'

As well as a mechanism at work in the juridical and political dimensions, for Agamben, 'validity without significance' also constitutes a fundamental mechanism in the linguistic dimension. This occurs primarily for two reasons. First, Agamben explains that, according to some specialists in Jewish mysticism, that is, to some Cabbalists, the Jewish Torah was originally not a sacred text, as it is conceived nowadays, but the *total potential combination of the letters of the alphabet* – and which, in turn, is included in the unpronounceable word that is used to refer to God, YHWH. It is in 'The Messiah and the Sovereign: the Problem of the Law in Walter Benjamin' (1999) that Agamben develops this argument. He quotes a text by Scholem in which the author refers to the Cabbalist Moses Cordovero's (1522–1570) account of the Torah.¹¹ In it, the Torah was not originally understood as a book, but as the sum-total of all possible combinations of the letters of the Hebrew alphabet.¹² Agamben describes a similar account of the Torah by Ba'al Shem, the founder of Hassidism in Poland. Originally, then, the Torah was understood as a mere potentiality without act – as *Geltung ohne*

¹⁰ See my *Mesianismo en la filosofía contemporánea* (2016) for a study of the role played by the state of exception in the messianic worldview of different continental philosophers – Benjamin, Rosenzweig, Lévinas, Agamben, Derrida, Badiou, and Žižek.

¹¹ It reads: 'the Torah in its innermost essence is composed of divine letters, which themselves are configurations of divine light. Only in the course of a process of materialisation do these letters combine in various ways. First they form names, that is, names of God, later appellatives and predicates suggesting the divine, and still later they combine in a new way, to form words relating to earthly events and material objects' (Scholem 1961, p. 71).

¹² Agamben 1999, p. 267.

Bedeutung — because it potentially included all of the possible combinations of letters but none in particular.

However, for Agamben, the relevance of *Geltung ohne Bedeutung* for the philosophy of language is not limited to one isolated example (the Torah), just as the relevance of *Geltung ohne Bedeutung* for the legal dimension is not limited to the status of the law in Kafka's work. For Agamben, by contrast, *Geltung ohne Bedeutung* traverses all linguistic practices. For him, the reason for this is that, before any concrete word, there exists 'language as the pure potentiality to signify'.¹³ At this 'zero point' of signification, language is all in potentiality, but not in act. That is to say, at this point, language might mean anything and does not mean anything in particular. It is simply the moment in which the linguistic domain is opened up or, to put it in Agamben's words, the moment that 'divides the linguistic from the nonlinguistic'.¹⁴ In short, the logic of *Geltung ohne Bedeutung* informs not only the 'zero point' of the law, but also the 'zero point' of language.

The analogy between the workings of the law and the workings of language can be extended further. When it comes to the law, the logic of *Geltung ohne Bedeutung* is not only felt at the 'zero point', but also in different phenomena of the workings of the law, such as in the state of exception. The same applies to language: *Geltung ohne Bedeutung* is not only observed at the zero point of language, but also in the daily experience of language. For Agamben, this is what Claude Lévi-Strauss (1950) meant when he spoke of the 'excess of the signifier over the signified' that is felt in the linguistic domain.¹⁵ This is a point that Derrida (1967a) has developed at length and that constitutes one of the core concepts in his work: for Derrida, signifiers point to signifieds, but, in contrast to what is commonly thought, they never actually reach them. In other words, signifiers are not exhausted and contained by signifieds. Signifiers always mean something more, something else, that escapes the control of the signified. In all signifiers there is a potential that is not exhausted in any signified. This phenomenon has far-reaching consequences. The most important of them is surely that no text has one unambiguous meaning which can be deciphered by all readers.

The reason for this phenomenon is that *the daily practice of language echoes, or is haunted by, the initial moment of language*: the opening moment of the linguistic, the metalinguistic. For Derrida, in this initial moment of language, we do not find, as is commonly assumed, a fixed and full signified, a full foundation or origin, a unity;¹⁶ but rather, we find a force that does not translate into any concrete signified — that is, we find a signifier.

¹³ Agamben 1995, p. 20.

¹⁴ Ibid., p. 20.

¹⁵ Ibid., p. 21.

¹⁶ Derrida 1972, p. 299.

By its very nature, a signifier always refers to a signified. In contrast, according to Derrida, the tension of the signifier that we find at the place that is traditionally assigned to the origin is never released – it never reaches any signified, and therefore always remains in suspension. This signifier is, then, a pure potentiality or impulse without actualisation. This distinguishes Derrida from his predecessors, since, for most of them, ranging from Greek thinkers to mediæval Thomists and modern philosophers, at the founding moment we find a full, stable, fixed origin – at least on Derrida's account. Derrida's vast opus made an attempt to criticise this paradigm, which he labelled the 'metaphysics of presence'. And he proposed the aforementioned alternative account of the foundational moment.¹⁷ Derrida did not refer to this alternative foundation with the term *Geltung ohne Bedeutung*. However, Agamben considers that *Geltung ohne Bedeutung* is fundamental to Derridean deconstruction. In Agamben's words, the 'success of deconstruction in our time is founded precisely on its having conceived of the whole text of tradition, the whole law, as *Geltung ohne Bedeutung*, as being in force without significance'.¹⁸

Moreover, Derrida developed the idea that, if we observe the daily practice of language, we encounter a number of examples of this potential that does not translate into any concrete act. Again, Derrida did not refer to them in terms of *Geltung ohne Bedeutung*, but in his reasoning, it is exactly the same logic that is at play. Such is the case with Lotz and Jakobson's 'zero phoneme'. The zero phoneme is a phoneme that, if it disappeared, neither the pronunciation nor the meaning of the word would be modified, because it means nothing and adds nothing. Such is the case with the letter *h* in Spanish. It is a fleshless skeleton, a signifying entity that does not signify. Nevertheless, the zero phoneme distinguishes itself from the absence of a phoneme¹⁹ because the former has the power to signify while the latter does not. It is a 'floating signifier', like the signifier that we find in the place that is traditionally assigned to a full origin or foundation. They both keep their capacity or potentiality to signify, although they signify nothing in particular. They are a mere force, impulse, excess.

Agamben, when elucidating the implications that *Geltung ohne Bedeutung* has for language, is very close to Derrida's view on language. For Agamben, then, *Geltung ohne Bedeutung* is at work in the opening moment of the linguistic, as he himself explores, and throughout the linguistic domain – something Derrida explored and Agamben took on.

At this point, it is worth noting that the existence of forms of language that keep their validity to signify but do not have a particular meaning, had

¹⁷ At this point, it is worth mentioning that Derrida conceives ontology in terms that are proper to the philosophy of language. See his *Of Grammatology* (1967a).

¹⁸ Agamben 1999, p. 170.

¹⁹ Derrida 1967b, p. 423.

already been studied by Husserl²⁰ and Frege,²¹ authors Derrida addressed in his work. What is particularly original about Derrida's and Agamben's position is that, for them, *Geltung ohne Bedeutung* is not only observable in an ontology conceived in linguistic terms, as it might be for Husserl, but also in political philosophy, in the juridical domain and, as we shall see next, in the ethical domain.

SECTION 3. The Foundation of Ethics as *Geltung ohne Bedeutung*

While Agamben explicitly tackles the juridical, political and linguistic implications of *Geltung ohne Bedeutung*, he does not mention its ethical implications. These can be explored by turning to Eric Santner's reading of the passage from Scholem's letter to Benjamin. Santner is concerned with deciphering the fragment and, in doing so, he expands upon Agamben's own reading. For Santner, 'validity without significance' is nothing more than 'too

²⁰ This is the case, for example, with enunciations without informative value, as Virno recalls à propos Husserl (Virno 2015, p. 39). Virno explores at length how the act of enunciating constitutes, precisely, a *Sinn ohne Bedeutung* in the Husserlian sense. In the act of enunciating there is a moment in which we are dealing with the 'sheer' fact of enunciating, which, according to Virno, following Husserl and Frege, is 'itself without content' (Virno 2015, p. 38). That is, it does not (yet) enunciate anything in particular. According to Virno, something similar applies to Frege's analysis of poetry: within poetry, some enunciations are 'devoid of a verifiable meaning' (Virno 2015, p. 39).

But Derrida's thought — and Agamben's through Derrida's — is indebted to Husserl in a deeper sense, as I have explored elsewhere (chapter two in Rosàs 2016). In what is usually considered his 'first stage', Derrida examined the concept of genesis in Husserl. Although the text, *The Problem of Genesis in Husserl's Philosophy* was not published until 1990, it was written in the 1950's. Husserl participated in the debate on the dialectic between genesis (or history) and structure (or idea). For Derrida, Husserl had the merit of realising that in the notion of genesis the following paradox is at stake: on the one hand, there is only genesis if there is an absolute origin, that is, an instant that does not derive from any previous instant; on the other hand, however, genesis can only take place within an ontological totality that includes this genesis. This implies that in order for genesis to take place, genesis needs already to have taken place (Derrida 1990, pp. 7–8). In words that hail from Kant's thought: what makes experience possible is an *a priori synthesis* (Derrida 1990, pp. 10–12). In a few words: Derrida argues that Husserl had the merit of simultaneously affirming the idea of an absolute origin and the idea of temporality. Husserl's thought therefore makes a traditionally stable origin impossible.

In my view, the notion of *Geltung ohne Bedeutung* developed by Agamben needs to be framed within this paradoxical ontology. This debt deserves further exploration.

²¹ Frege did not refer to this phenomenon as *Geltung ohne Bedeutung*, but as *Sinn ohne Bedeutung*. The phenomenon, though, was very similar. As Vanrie puts it: for Frege, '[t]o have *Sinn* but no *Bedeutung*, then, is one way for a name to merely have the purpose of signifying, i.e., to occur without successfully signifying. Frege presents examples of such cases in *Über Sinn und Bedeutung*' (Vanrie 2021, p. 123).

much address': the subject feels that he or she is being addressed *too much*. The subject hears a commandment — you there, answer! — to which he or she cannot respond because it does not command anything in particular. This is the logic of *Geltung ohne Bedeutung* at work: pure potentiality without actual content. The subject feels that he or she is exposed to a call that addresses him or her without establishing what is expected from him or her: a call to which, therefore, he cannot respond appropriately. In Santner's words: 'what gets under the skin is, in other words, a fragment of a hypnotic commandment, a sort of somniferous vocal object'.²²

In my view, this is the zero degree of the ethical experience, especially as portrayed by Emmanuel Lévinas (1961), for whom the first experience of the subject is the call from the other. Interestingly, Santner does not maintain that this experience is interwoven with ethics, but instead with trauma. Santner holds that '[e]very trauma must, Freud says, contain the order of an excess of demand'.²³ And that 'a trauma becomes possible when a "too much of address" [*sic*] persists beyond what can be *translated* into a demand for work, a task to be discharged, *something we can do*'.²⁴ It could be stated, then, that trauma arises with the difficulty of fulfilling an excessive ethical demand.

The experience of an excess of command brings about a certain degree of anxiety because one feels the need to respond to the call, but does not know what the demand is and how to satisfy it. Then, the 'mind is left possessed or haunted, under the "ban" of something that profoundly matters without being a fully-fledged thought or emotion, that is, anything resembling an orientation in the world'.²⁵

This tension is never resolved. The call is never properly responded to. To my mind, the reason for this phenomenon is to be found in Derrida's account of justice, which carries forward that of Lévinas. For Derrida, laws, norms, and other types of regulation try to approximate the idea of justice, but will never manage to do more than that (Derrida 1989–1990). Justice will always be something other than the result of the application of certain laws. The call for justice will never be exhausted in any concrete norm. Justice will always remain other. Otherwise, it would no longer be justice, but law: a norm with a concrete formulation.

Moreover, in the same manner as in the juridical, political and linguistic domains, it seems to me that *Geltung ohne Bedeutung* is not only observable in some concrete ethical calls, but *at the very opening up of the ethical domain*. *Geltung ohne Bedeutung* is the very structure of the first ethical call, the call that opens up the rest of the calls. It is the very opening

²² Santner 2001, p. 39.

²³ Santner 2001, p. 32.

²⁴ Ibid., p. 32.

²⁵ Santner 2001, p. 39.

up of the ethical domain; it opens up the possibility of the ethical. Or, put differently: at the beginning there is a pure address, a pure call – an impulse, a tendency, a movement that goes nowhere in particular, but that asks the subject to mobilise himself or herself.

In short, this surplus of validity over meaning at the ethical level is always in force, since it constitutes the very beginning of the ethical domain. This is why it *haunts* us all the time, to use Santner's word. However, in some circumstances, such as in trauma, it becomes especially apparent. The logic of *Geltung ohne Bedeutung* is also felt especially acutely in the Kantian categorical imperative. For Roberto Esposito, 'the categorical imperative does not prescribe anything but this dutifulness – no content beyond the formal obligation of obedience'.²⁶

What do the different forms acquired by *Geltung ohne Bedeutung* in the juridical, political, linguistic and ethical fields have in common? First, in all these domains, there are certain experiences in which this logic is particularly felt. At the juridical and political levels, the state of exception. At the linguistic level, the zero phoneme, for example. And, at the ethical level, the experience of trauma.

Second, and more importantly, *Geltung ohne Bedeutung* is the logic that one finds at the opening up of a field. In my view, *Geltung ohne Bedeutung* is the very *condition of possibility* of each of these fields. Agamben does not speak explicitly of 'conditions of possibility', but it is worth putting it in these terms because this is why it haunts all experience in each of these fields.

SECTION 4. Distinguishing between the Normal and the Pathological

One of the thorniest topics discussed by philosophers of medicine is the distinction between the normal and the pathological. This distinction is of the utmost importance because it allows the territory of the medical to be delimited: the medical refers to the identification, exploration and treatment of the pathological. Therefore, in order to establish where the medical field opens up, one needs to first define exactly what pathology is.

French philosopher and physician Georges Canguilhem (1966) famously discussed several different ways of distinguishing between these two states. In the 1960's, he reviewed the work of a number of physicians and theorists of medicine to explore and compare the ways in which they distinguished between the normal and the pathological. These were François Joseph-Victor Broussais (1772-1838), Claude Bernard (1813-1878), Marie François Xavier Bichat (1771-1802), and Auguste Comte (1779-1857), among others. To forge his own view on the topic, Canguilhem emphasised

²⁶ Esposito 2013, p. 34.

the need to distinguish between the abnormal, which refers to that which is statistically less common and is simply a descriptive notion, and the anomalous, which is a normative concept and means that something is pathological. For him, what makes a certain phenomenon anomalous is not the fact that it is abnormal. That was the criterion used by some physicians, but it was definitely not Canguilhem's view. Put differently, Canguilhem opposed the view according to which the normal is the statistically most prevalent and the pathological is comprised of the least prevalent states. As Tiles recalls, Canguilhem 'rejects the equation of the pathological with the abnormal' and, in this way, he 'clearly rejected Bernard's definition of physiology as the science of normal functioning'.²⁷

On the other hand, Canguilhem also rejected the ontological view of disease – that is, he did not consider that there was a natural, objective criterion to distinguish the normal from the pathological. In this sense, Canguilhem may be taken to be criticising naturalism – which we shall later examine – *avant la lettre*.

The originality of Canguilhem's thought was to conceive as normal those states in which the organism fights against the obstacles to its development and manages to prevent these obstacles from weakening life.²⁸ In other words, for him, the normal state is that in which life fights against the multiple dangers that threaten it and is not diminished by them.²⁹ This means that the notions of 'normal' and 'pathological' depend, to some extent, on context – the same living being might manage to survive in some environments, and would therefore be considered 'normal', while it might not manage to survive in other environments, in which it would therefore be considered 'pathological'. In other words, being in a 'normal' state has to do with having the capacity to adapt oneself to the environment, which might be a changing one.

Canguilhem's work was highly influential, especially among continental philosophers. When, some years later, the English-speaking world saw the emergence of the dispute between naturalism and normativism, Canguilhem was neglected by many of the participants in this debate, although he had clearly anticipated many of the points of normativism.

In the English-speaking academic world, the discussion set two standpoints in opposition with one another: the naturalists versus the normativists. For the naturalists, disease exists in nature, science discovers it, classifies it and explores it. For normativists, by contrast, disease is value-laden, which means that each geographical and historical context has a

²⁷ Tiles 1993, p. 739.

²⁸ Canguilhem 1966, p. 102.

²⁹ Canguilhem 1966, p. 103.

different account of disease, one that reflects and reproduces the values of the society in question. Normativism, then, is a form of socio-constructivism.

These two schools of thought not only differ in their opinions regarding the nature of disease, but also in what makes a certain stage pathological. In his biostatistical theory (BST), the best-known naturalist, Christopher Boorse, holds that ‘normal’ traits are those that contribute to the survival and reproduction of human beings, i.e., what is known as ‘biological fitness’. On such an account, pathology includes alterations from normal functioning – the dysfunctions that, moreover, are statistically the least prevalent traits. Pathology, then, is understood as a deviation from what is statistically the most common (Boorse 1974; Boorse 1977). In the words of the most influential theorist of this school of thought: dysfunction ‘occurs when functional efficiency falls some distance below the population mean’.³⁰ And this is the criterion to establish what pathology is. Other naturalists define dysfunction differently. Such is the case of Jerome Wakefield (1992), for whom dysfunction takes place when an organism does not manage to perform its natural function as established by *natural selection*. It is also the case for Schwartz (2017), who considers that statistical frequency cannot be the determinant criterion because some diseases are very common; he argues, instead, that there is disease when a biological alteration gives rise to *negative consequences*. And this is also the case with Daniel Hausman (2012), who complements Boorse by arguing that what distinguishes the normal from the pathological is ‘whether the condition contributes to the functioning of some directly organised system within the organism, where that system directly or indirectly typically promotes fitness’.³¹ Matthewson and Griffiths³² also hold that organisms can go awry from a purely biological point of view, in particular, in four different ways, and although ‘[t]hese failures of biological normativity do not necessarily constitute disease states in and of themselves [...] they can be deployed as part of an account of disease’.³³ Although these authors each conceive ‘dysfunction’ in slightly different ways, they all share Boorse’s idea according to which the boundary between normality and pathology can be set by turning to objective biomarkers that indicate whether the organism is behaving as it *ought to*.

Normativists³⁴ have criticised several aspects of naturalism. For example, normativists argue that being statistically uncommon does not turn a trait into a pathology, such as in the case of homosexuality. Moreover, they hold that healthy states include far more than mere functions that contribute

³⁰ Boorse 1977, p. 589.

³¹ Hausman, 2012, p. 520.

³² Matthewson and Griffiths, 2017, p. 447.

³³ Matthewson and Griffiths, 2017, p. 449.

³⁴ Such as Engelhardt (1976), Margolis (1976) and Sedgewick (1982).

to biological fitness. And, what is more, normativists maintain that biological fitness is not an objective state, but a projection of human values.

For normativism, the way to distinguish between the normal and the pathological requires paying attention to whether we *desire* that state – in which case it is considered ‘normal’ – or whether we do not desire it – in which case it is considered ‘pathological’. And, since desires are different in each society, the normal and the pathological are understood differently in each socio-cultural context.

The dispute between naturalism and normativism has multiple ramifications. For example, some theorists have developed hybrid positions³⁵ that try to complement a normativist approach with some elements of naturalism. However, they have been criticised because they fall into the same errors as those that plague naturalism. The exploration of the ramifications of the dispute between naturalism and normativism is not the object of the present paper; what concerns us here is that when one looks for a criterion to distinguish the normal from the pathological, that is, a single criterion to establish what disease is, one finds a multiplicity of criteria, many of which exclude others, as is the case with the aforementioned dispute. One finds, in short, that there is no consensus. In fact, one finds that any ‘attempt to define disease will fail, because disease entities do not actually have anything in common other than being called “disease”’.³⁶

Hofmann asserts this in the context of a broad review of the conflicting theoretical frameworks that try to define disease. I agree with him, although, in my view, he fails to acknowledge one key point: *all the definitions of disease share one idea – the belief that there is a difference between normality and pathology*. Put differently, if one explores all of the definitions of pathology, one does indeed find a common core, a common denominator. All definitions of pathology rest upon the same foundation: the belief in the existence of a difference between normality and pathology. Or, more precisely, a belief in the possibility of distinguishing between the normal and the pathological. Concretely, at the beginning of every chain of arguments to justify one or another definition of pathology, one finds the *possibility* of distinguishing between both states at the moment that is immediately prior to specifying what this difference consists of.

My point is that this common ground shared by all definitions of pathology encompasses the logic of the *Geltung ohne Bedeutung*: it is what opens up the difference between the normal and the pathological without yet establishing what each consists of. It is pure potentiality. In other words, *it merely prescribes that there is a difference between the normal and the pathological, but not what this difference actually is*. In other words, at the foundational moment of the medical, one finds a stage that creates the

³⁵ I.e., Stempsey (1999) and Ereshefsky (2009).

³⁶ Hofmann 2001, p. 219.

division between the pathological and the non-pathological, between the medical and the non-medical.

Therefore, at the very beginning of the foundation of the medical one finds — logically — the meta-medical. And, just as occurs with the meta-political, meta-juridical, meta-linguistic, and meta-ethical foundations examined above, the meta-medical is simultaneously founded and de-founded by *Geltung ohne Bedeutung*. *Geltung ohne Bedeutung* founds the medical as long as it provides a ground for a definition of pathology to be developed. And it de-founds it as long as it does not provide a solid ground for a univocal and once and for all definition to be developed. It founds by de-founding. *Geltung ohne Bedeutung* is, by nature, a destabilising foundation.

Although Agamben does not address the phenomenon of *Geltung ohne Bedeutung* à propos the medical dimension, his work does address in many of its aspects the health of the population. In many respects, Agamben's work is indebted to Foucault's reflections on biopolitics: on the government, administration and management of the population's lives. For Agamben, when the law remains in force but is somehow suspended, the sovereign can attain an immediate relation to the bare life of the human being — for Agamben, the *zōē*, the mere *fact* of living, as opposed to *bios*, the *form* of living.³⁷ This is precisely Agamben's point at the end of his *Homo Sacer: Sovereign Power and Bare Life* (1995). He exemplifies it with the controversial case in the 1970's and 1980's of Karen Quinlan, a girl who was comatose and whose organs were maintained in a functional state by life-support technology, the removal of which was resisted by the authorities for many years despite her parents' wishes.³⁸ In my view, Agamben, following Foucault and also Schmitt, conceives the sovereign, whether a person or an institution, as the only entity that has the power to turn a state of *Geltung ohne Bedeutung* into a state of *Geltung* with a very concrete and particular *Bedeutung*. In other words, sovereignty has to do with mastering a state of mere *Geltung ohne Bedeutung* — of pure potentiality — and with surpassing such a state in order to make concrete decisions with regard to what is pathological and what is not, and what deserves to live and what does not, a discussion made manifest in the paradigmatic controversy over Karen Quinlan.

Tellingly, the state of exception of which Agamben speaks in several of his books is often declared *precisely* because of sanitary emergencies, such as plagues. The covid-19 pandemic is a paradigmatic example of this phenomenon, upon which Agamben has made some well-known declarations.³⁹ Within a state of exception, citizens become treated purely as

³⁷ Agamben 1995, p. 9.

³⁸ Agamben 1995, p. 104.

³⁹ Agamben (2020).

medicalised subjects, as bare life in need of management by the state, with a view to one thing only: ‘saving lives’, especially lives ‘worthy of being lived’. Agamben did not explicitly mention the *Geltung ohne Bedeutung* in this context, but it could be stated that his view of this concept underlies his views on the role of sovereign power during the pandemic: the *Geltung ohne Bedeutung* is the moment immediately prior to the decision with regard to where to mark the border between health and pathology, which is a distinction that, in turn, is needed in order to decide which lives are healthy enough to deserve living. During the pandemic, sovereign power jumped from the state of pure potentiality proper to *Geltung ohne Bedeutung* to a state of *Geltung* with a very concrete and particular *Bedeutung* – that is, with a concrete number of norms and regulations with respect to what individuals could do and should not do, and with respect to which lives deserved special care and which did not.

Conclusions

In this paper, I hope to have contributed to deepening the understanding of the expression *Geltung ohne Bedeutung*. The expression was firstly used by Scholem to refer to a single phenomenon: the status of the law in Kafka’s work. More than sixty years later, Agamben revived the notion and, in a number of texts, expanded its meaning for different fields: the juridical, the political, and the linguistic. With this paper, I hope to have shown that the logic of *Geltung ohne Bedeutung* is at work in the foundational moments of these different fields – and also within the ethical field. In sum, I have argued that the logic of *Geltung ohne Bedeutung* traverses the entirety of the juridical, political, linguistic and ethical domains from their very beginning. Put differently, it constitutes the condition for the possibility of each of these fields. As I developed in footnote 20, it remains to be explored how much the logic of *Geltung ohne Bedeutung* owes to Husserl’s digression on the dialectic between genesis and structure, and to Derrida’s (1990) reading of Husserl, which has been very influential for a whole generation of continental philosophers, among whom Agamben occupies a prominent place.

Furthermore, I have insisted that the logic of *Geltung ohne Bedeutung* is not only at work in the foundational moment, but is also felt throughout the domains that it opens up. The reason is that the logic of *Geltung ohne Bedeutung* constantly *haunts* our experience in all of these fields. In other words, I have argued that we are *exposed* to this surplus of validity over meaning not only at the constituent moment of the field, but also in all of its instantiations in concrete phenomena – i.e., at the juridical level, in the state of exception, and at the linguistic level, in the floating signifier, along with the ethical demand without content.

I also hope to have contributed to further expanding the usefulness of the notion by showing the role it might play in another field: the medical. I have argued that *it is precisely the logic of Geltung ohne Bedeutung, validity without significance, that lies at the heart of any attempt to define disease and which makes it impossible for disease to be defined once and for all*. That is, I maintain the idea that it is because of this *Geltung ohne Bedeutung* that lies at the core of any definition of disease, that the fight between normativism and naturalism — as between any other views on disease — will never be definitively solved in favour of the one or the other. *Geltung ohne Bedeutung* operates at the foundational moment of the field, that is, at the meta-medical moment, but it is also felt throughout the medical field — for example, in discussing the suitability of certain definitions of what pathology is. Although it does not fall within the goal of this paper, a point that deserves further exploration is how the logic of the *Geltung ohne Bedeutung* should be judged or evaluated. For Scholem — as for any other reader of Kafka — the law in Kafka's work is something that is suffocating. And this is the case for Agamben in terms of phenomena such as the state of exception. Actually, Agamben maintains without hesitation that the force-of-law is a suffocating state that needs to be switched off and overcome. In fact, he makes several efforts to propose a strategy to *interrupt* the force of law.⁴⁰ By contrast, other theorists, such as Derrida, do not criticise this state, but merely maintain that it can be used to describe the way in which the foundational moment works, insisting that traditional Western philosophy has failed to notice it.

And how should the implications of *Geltung ohne Bedeutung* for the medical field be judged or evaluated? If any definition of normality and pathology is rooted in or stems from a *Geltung ohne Bedeutung* then these definitions rest upon a destabilising foundation. This fact certainly has far-reaching implications for the medical field that cannot be fully developed in this paper but only suggested: the boundary between the normal and the pathological could always be drawn otherwise, somewhere else. This idea has been intensively debated à propos mental diseases,⁴¹ but if we take the idea to its ultimate logical consequences, it should also be applied to the biomedical field in general. In a few words, the criteria that establish who has a given disease and who does not have it should not be understood as objective and immovable, but as always open to revision, and not only because of biomedicine's new discoveries. That is, the line that divides the normal from the pathological should be regarded, to a certain extent, as arbitrary, as some philosophers of medicine argue à propos hypertension and some neoplasms (e.g. cervical, oesophageal, breast, prostate).⁴² This has

⁴⁰ Agamben 1999, pp. 170–71.

⁴¹ Rose 2006.

⁴² Rogers and Walker 2017, p. 11.

a wide range of consequences, ranging from merely medical issues — i.e., who needs to receive treatment and who does not — to economic issues — e.g., who deserves economic aid — and existential issues — i.e., who will be stigmatised or relieved due to having received a certain diagnostic label.

Finally, it must be said that the logic of *Geltung ohne Bedeutung* might also have implications for other fields beyond the juridical, the political, the linguistic, the ethical, and the medical that remain to be explored — such as the foundations of the criteria for beauty.

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